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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,240

11/14/2003

Kirby Williams Reese

18244-108780

4992

7590

02/02/2006

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EXAMINER

ADDIE, RAYMOND W

ART UNIT

PAPER NUMBER

3671

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/715,240	<b>Applicant(s)</b> REESE, KIRBY WILLIAMS	
	<b>Examiner</b> Raymond W. Addie	<b>Art Unit</b> 3671	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 12-16 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12-16, 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**


- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12, 21, 22, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by  
Papetti # 4,726,708.

Papetti discloses a temporary road and method of making comprising:

Providing a plurality of flexible, metal-wire mesh, gabion containers (1), each having  
a plurality of compartments (10).

Filling each container (10) with a light weight filler material such as a ballast material  
(16).

Arranging a plurality of gabions (1) to each other, to create a gabion layer, such that one  
or more panels (3) can be laid flat on top of the infirm soil, thus forming a roadway. See  
fig. 5; cols. 1, Col. 2, ln. 64-Col. 3.

2. Claims 12, 13, 15, 16, 26 are rejected under 35 U.S.C. 102(b) as being  
anticipated by Woodfin # 6,381,792 B1.

Woodfin discloses a method of supporting foot and vehicular traffic over inform terrain,

such as found at river and creek crossings, while minimizing damage to said terrain, the method comprising:

Providing a plurality of flexible, metal-wire mesh, gabion containers (10), each having an encapsulating wrapper, such as a fabric .

Filling each container (10) with a light weight filler material such as a buoyant, polymer foam material (90).

Arranging a plurality of gabions (1) to each other, to create a gabion layer, such that one or more panels (10) can be laid flat on top of the infirm terrain, thus forming a roadway.

See Fig. 6; Cols. 2-4.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Papetti '708 in view of Coburn # 4,643,271.

Papetti discloses a gabion container and method of making a roadway by connecting a plurality of gabions (10) together to support a panel (3), thus forming a roadway. What Papetti does not disclose is the type of ballast material contained inside said gabions.

However, Coburn teaches it is known to provide gabion containers with a light-weight aggregate, that is buoyant in water, such as polystyrene foam.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to provide the gabion support component, of Papetti, with light-weight, ballast material, as taught by Coburn, in order to reduce the weight of the structure.

#### ***Response to Arguments***

4. Applicant's arguments filed 11/23/05 have been fully considered but they are not persuasive.

Applicant argues against the references cited, in general and simultaneously, by suggesting "the cited references disclose gabion containers used for erosion control and drainage filtration...Applicant agrees that the uses cited in the references are well-known; however the Applicant's newly disclosed method and use is directed to a different need and solves a different problem entirely".

However, the Examiner does not concur.

The method steps claimed, in the pending claims are identical to that which was previously filed. The fact the preamble of the independent claims have been changed, from that which was originally filed, or new claims with a different preamble, from which was originally filed; does not constitute a new method, but rather a modified use for said method steps.

To that extent both Papetti and Woodfin disclose the use of Gabion containers, to for a roadway while protecting infirm soil such as found at river embankments, lakesides and similar earthworks.

Therefore, the arguments are not persuasive and the rejections are maintained.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

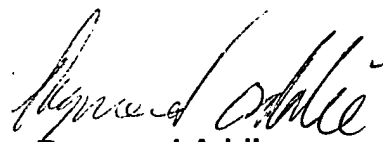
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3671

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond Addie whose telephone number is (571) 272-6986. The examiner can normally be reached on Monday-Saturday from 7:00 am to 2:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (571) 272-6998.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**Raymond Addie**  
**Primary Examiner**  
**Group 3600**

1/26/06